



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,300	04/13/2001	David Michael Kimble	50P3984.01	4749
36738	7590	04/20/2007	EXAMINER	
ROGITZ & ASSOCIATES 750 B STREET SUITE 3120 SAN DIEGO, CA 92101			HUYNH, SON P	
			ART UNIT	PAPER NUMBER
			2623	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
2 MONTHS		04/20/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
APR 20 2007
Technology Center 2600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/835,300
Filing Date: April 13, 2001
Appellant(s): KIMBLE, DAVID MICHAEL

John L. Rogitz
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/26/2007 appealing from the Office action mailed 1/3/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

an appeal has been filed in 09/775,692

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Art Unit: 2623

6,317,885 B1	FRIES	11-2001
6,757,907 B1	SCHUMACHER et al.	06-2004
7,076,792 B2	ZIGMOND et al.	07-2006

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 114-117 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fries (US 6,317,885) in view of Schumacher et al. (US 6,757,907) and Zigmund et al. (US 7,076,792).

Regarding claim 114, Fries discloses a method for providing video program, comprising:

using a TV system to present to a user's web Browser a list of links, each link corresponding to a respectively piece of television program (using TV system, including a set top box (28) and television 30) to present to a user web Browser 62 pages such as program guide page comprises a list of links, each link on the program guide page

corresponding to a respectively piece of video program – see including, but are not limited to, figures 1, 3, 6, col. 6, lines 35-65; col. 18, lines 6-22);

receiving a selection of a link (e.g., receiving a selection of a link to a television program, or link to another page – see including, but is not limited to, col. 18, lines 6-22);

Fries further discloses the page images have meta-data and PSI data associated therewith in the Transport stream (col. 22, lines 61-67). The meta data comprises the source ID, size, shape and position, etc. of the images (col. 22, line 61-col. 30, line 65). In response to selection to link on the page (e.g. link to a video program), sending protocol file that contains meta-data and PSI data (size, source ID, channel, position, color, etc.) of the selected program for displaying the video program/file corresponding to the selected link – see including, but are not limited to, col. 2, lines 30-38, 7, lines 7-52, col. 8, line 50-col. 11, line 37, col. 18, lines 6-23, col. 19, lines 30-63, col. 22, line 61-col. 23, line 15. Thus, protocol file (metadata and PSI data) is inherently sent to the TV system in response to the selection of a link on the page, the protocol file including a channel (ID source) and a size and location of the images corresponding to the video program associated with the selection so that the TV channel corresponding to video program/file associated to the link it tuned to and rendered for displaying at predetermined position on the screen (also see col. 7, lines 35-52);

Pries further discloses causing a channel tuner of the TV system to tune to the TV channel corresponding to the video program associated with the selection (causing channel tuner such as in band tuner 70 of the set top box to tune to the TV channel

Art Unit: 2623

corresponding to the video program associated with the selected link – see including, but are not limited to, figure 3, col. 9, lines 40-50; col. 13, lines 57-64; col. 18, lines 7-22). Fries further discloses the Browser 62 displays program guide allows a user to link to a currently available program, add the program to a timer for timed viewing thereof, and/or prompt the user to purchase a pay per view event (col. 13, lines 58-64; col. 18, lines 7-22).

However, Fries does not specifically disclose providing video on demand wherein the list of links (in the program guide) is video on demand list, and the protocol file include a TV channel of the selected link and a size and location of a video layer within a markup language layer.

Schumacher, in an analogous art, discloses providing a list of video on demand programs using a web browser, and the video on demand system 100 provides the selected video on demand program to user in respond to user selection of a link on the video on demand list (see including, but are not limited to, figures 1-4, 6, col. 2, line 47- col. 4, line 5, col. 5, lines 35-57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fries to use the teaching as taught by Schumacher in order to allow user to navigate and select a video on demand program for immediately delivery by selection of a link on the screen thereby improve convenience for users.

However, Fries in view of Schumacher does not specifically disclose the protocol file includes a TV channel of the link and a size and location of a video layer **within a markup language layer.**

Zigmond discloses the protocol file includes a TV channel of a link and a size and location of a video layer within a markup language layer (HTML tags includes channel number, TV image width, TV image height, input source, z position, color, position, etc. of a television show layer within a HTML page content – see including, but is not limited to, col. 2, lines 4-22, col. 3, line 45-col. 4, line 37; col. 5, lines 43-57, col. 7, lines 45-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fries in view of Schumacher to use the teaching as taught by Zigmond in order to transmit and display video image and HTML image to user as a single HTML page (col. 3, lines 3-67), thereby improve convenience to users.

Regarding claim 115, Fries in view of Schumacher and Zigmond teaches the TV system as discussed in claim 114. Fries further disclose the TV system includes a set top box (STB 28, figures 1,3), the STB presenting to the user's Web browser (62) the list of links (figures 3, 6-8, col. 6, lines 35-55, col. 13, lines 58-64).

Regarding claim 116, Fries in view of Schumacher and Zigmond teaches the TV system as discussed in claim 114. Zigmond further discloses the home entertainment system provides Internet layer (for display HTML image, web content 220) and a video layer

Art Unit: 2623

(e.g., for displaying video image 220) to the user's web browser (web browser for displaying HTML documents), the browser being directed to render a portion of the Internet layer transparent to establish a transparent Internet portion, the transparent Internet portion having a size and screen location specified in the protocol file, the video layer being presented in the transparent Internet portion (see including, but is not limited to, figures 2, 6, col. 3, lines 1-11, line 42-col. 4, line 49, col. 5, lines 9-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fries in view of Schumacher to use the teaching as further taught by Zigmond in order to allow user to simultaneously view the video content and Internet content on the same page.

Regarding claim 117, the limitations of the system as claimed that correspond to the limitations of the method as claimed in claim 114 are analyzed as discussed in the rejection of claim 114.

Fries further discloses set top box (28) and television 30 (figure 1, 3, are interpreted as "a set top box" and "a display"; Browser (62) presenting pages including plurality of links – figures 3, 6, col. 13, lines 58-64) is interpreted as "a Web browser presenting images on the display; cable head end 22 (figures 1, 2) is interpreted as "a television head end".

(10) Response to Argument

The Obviousness Rejection of the Independent Claims:

In response to appellant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Particularly, Appellant argues none of the relied portions of Zigmond et al. is it taught that a protocol file is sent to a TV system. Second,...is a "protocol profile", as discussed above the relied-upon portions simply do not teach anything about a location of a video layer within a markup language layer" (page 5, paragraph 3); Fries et al. appears to specifically mention links corresponding to a video program, col. 18, lines 6-22, nowhere mentions that the video program is presented within a portion of a markup layer, much less in accordance with the size and location defined by a protocol file, much less still a protocol file that is downloaded in response to selection of a link as recited in the independent claims (page 5, paragraph 4-page 6, line 2, page 6, paragraph 4); television in Fries is not television VOD as claimed (page 6, paragraph 3).

The Examiner respectfully disagrees.

It is noted that neither element "video program is presented within a portion of a markup layer" nor element "protocol file that is downloaded in response to selection of a link" is recited in the independent claims. Independent claim 114 recites "in response to the selection, sending a protocol file to the TV system", and "...a video layer within a markup language layer;"

The Examiner does not rely on Zigmond for the teaching of “protocol file” is sent to a TV system. The Examiner relies on Fries for the teaching of this limitation (see discussed in the rejection of claim 114 above); the Examiner neither rely on Fries for the teaching of “television VOD” nor the teaching of “protocol file include a TV channel of the selected link and a size and location of a video layer within a markup language layer;” but instead, the Examiner relies on Schumacher for the teaching of providing a list of video on demand programs using a web browser (see discussed in the rejection of claim 114 above), and the Examiner relies on Zigmond for the teaching of protocol file includes a TV channel of the link and a size and location of a video layer within a markup language layer. Specifically, Zigmond discloses HTML tags includes channel number, TV image width, TV image height, input source, z position, color, position, etc. of a television show layer within a HTML page content – see include, but is not limited to, col. 2, lines 4-22, col. 3, line 45-col. 4, line 37, col. 5, lines 43-57, col. 7, lines 45-62). Thus, Zigmond discloses the protocol file (interpreted as HTML protocol with tags) includes a TV channel of the link (interpreted as channel number) and a size (interpreted as TV image width, TV image height) and location (interpreted as position, z position) of a video layer (TV image) within a markup language layer (HTML).

Appellant further argues in Fries, the protocol file (metadata and/or PSI data for the HTML pages are not necessarily sent to a TV system (page 8, paragraphs 2-4). The Examiner respectfully disagrees.

Fries discloses the meta data and/or PSI data comprises the source ID, size, shape, position, etc. of the images (col. 22, line 61-col. 30, line 65). In response to user selection of a link on the page (e.g. selection of a link to a video channel, or link to a page contains URL of the MPEG video file, see include, but are not limited to, col. 18, lines 7-42, col. 20, lines 32-67), if the selected channel, or selected page is available the browser tunes to the selected channel and selects the appropriate program element (service component) for display. The browser also selects the first (meta-data) program element so that it can render focus and execute links as directed by the user. The transport stream includes the appropriate PSI data to allow the page images to be selected and displayed (see include, but is not limited to, col. 19, lines 15-54). Thus, the protocol file (meta data and/or PSI data) must be sent to the TV system in order to render the display of the selected program element in response to user selection of a link on the web browser.

In response to Applicant's argument that there is not apparent reason to send the protocol file to a TV system..."protocol file" has used outside a TV system... (page 7, paragraph 2), the Examiner notes that claim 114 does not define the location of a TV system. The claim merely claims using a TV system to present a user's Web's browser... and sending a protocol file to the TV system. Therefore, the claim "TV system" could be interpreted as any device related/involved in presentation of a list of links to the user regardless of its location.

Art Unit: 2623

For the reasons given above, the combination of Fries, Schumacher, and Zigmond discloses the method and system as claimed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Son P. Huynh

Conferees:

John W. Miller

Scott E. Beliveau


JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600


SCOTT E. BELIVEAU
PRIMARY PATENT EXAMINER
Autry SPE